S.B.CIVIL WRIT PETITION NO.6476/1994.

10.08.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.M.M.Ranjan]
Mr.O.P.Mishra]for the petitioners.

Mr.K.K.Sharma]
Mr.Rakesh Jain]for the respondent No.1.
Mr.V.K.Tamoliya]
Mr.Mohit Gupta] for the respondent No.2.

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This writ petition has been filed by the petitioners challenging the order Annexure-1 dated 20.09.1993 and Annexure-3 dated 24.12.1993 passed by the Press Council of India by which the complaint against the petitioners has been found to be correct and the Press Council of India decided to censure the petitioner No.1 which is a Hindi Daily, Evening Edition newspaper being published from Jaipur.

The submission of the petitioners is that no opportunity of hearing was given to the petitioners as has been mentioned in para No.8 of the writ petition, inasmuch as, no notices were served upon the petitioners before the orders were passed against the petitioners. To the aforesaid averments made by the petitioners, the respondent No.1 has submitted its reply wherein at para No.4 it has been submitted that show cause notices were issued to the petitioners under registered A/D and the same were served upon the petitioners and the A/D (Annexure-R/2) has been filed along with the reply. It is submitted in the reply that the A/D (Annexure-R/2) bears

signatures of the petitioner.

To the aforesaid reply which has been submitted by the respondent No.1, the petitioner has not filed any rejoinder denying the averments made in para No.4 of the reply.

In view of the above, since the averments made in the reply and the document (Annexure-R/2) have not been controverted or denied in rejoinder, there remains no escape from the fact that the summons were sent by the respondent No.1 Press Council of India and received by the petitioner at the address given on the receipt.

Thus, so far as the submission of the learned counsel for the petitioner that opportunity of hearing was not given to the petitioner and that no summons or notices were given to the petitioners is concerned, the same is devoid of any force.

The petitioner has then contended that sub-section (3) of Section 14 of the Press Council Act, 1978 specifically prohibits the council from holding an inquiry into a matter, in any manner, in respect of which any proceeding is pending in the court of law. Sub-section (3) of Section 14 of Press Council Act, 1978 reads as under:-

> “(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.”

It is submitted that in respect of the matter pertaining to the defamation of the complainant, the complainant had filed a suit for damages on account of defamation on account of publication made by the petitioner. The copy of the plaint has been filed as Annexure-8. It is submitted that since the matter was sub-judice before the civil court, the Press Council of India had no jurisdiction to entertain the complaint.

The respondent No.1, in its reply has submitted that so far as the above submission is concerned, since the petitioner did not appear to file any counter or reply to the show cause notice, the aforesaid fact was never brought to the notice of the Press Council of India and, therefore, the Press Council of India was justified in proceeding with the matter. The non-petitioner No.2 who is complainant, has also filed the reply and in the said reply it has been submitted by him that as would be evident from the perusal of the averments made in paragraphs 6, 7 and 12 of the plaint, it is clear that the same are with regard to the publication made in the newspapers published on 26.09.1992, 28.09.1992 and 23.10.1992. The aforesaid three publications made on the aforesaid dates are subject matter of the suit which is pending before the Civil Court for grant of damages on account of defamatory publications made in those publication of the said dates. It is submitted that so far as the complaint which was made before the Press Council of India, as would be evident from the Annexure-1, is concerned, the same related to the issue dated 30.10.1992 which is not a subject matter of inquiry or adjudication before the Civil Court as the complaint is

only with regard to the issue dated 30.10.1992 and not with regard to the issues of 26.09.1992, 28.09.1992 and 23.10.1992. It is, therefore, submitted that the provisions of sub-section (3) of Section 14 of the Press Council Act, 1978 are not attracted so as to impose an embargo of jurisdiction.

I have given my thoughtful consideration to the above submissions.

The words used in Section 14 sub-section (3) no doubt, as was sought to be argued by the learned counsel for the petitioner, are very wide in nature so as to include “an inquiry into any matter” but the aforesaid words are also followed by the words “in respect of which any proceedings is pending in a court of law.”

A reading of the aforesaid provision, in my opinion, goes to show that words “any matter” are qualified by the subsequent words “in respect of which any proceeding is pending in a court of law”.

In the instant case, the complaint which was made to the Press Council was only with regard to the publication made in the issue of 30.10.1992. On the other hand, so far as the Court is concerned, it is seized of the matter for the grant of damages on account of defamation the same relates to the publications made on different dates altogether i.e. 26.09.1992, 28.09.1992 and 23.10.1992 and not in respect of the publication made on 30.10.1992. The Press Council of India in this case, therefore, was seized of the matter only with regard to

the publication made in the issue of 30.10.1992. In case, such a wide meaning is given, then it would be very easy for a publisher to escape the liability of the rigours of Section 14. He may have made a publication which is defamatory and which may be subject-matter of inquiry in a civil suit and, therefore, subsequently may continue to make defamatory publications and would escape the rigours of Section 14. In my opinion, this cannot be the intention of the Legislature. The provisions of sub-section (3) of Section 14 do not apply in the present case where the court is seized of the matter only with regard to the publications made on 26.09.1992, 28.09.1992 and 23.10.1992 and the Press Council was seized of the matter relating to the publication made on 30.10.1992 which is altogether different.

In the facts and circumstances of the instant case, therefore, the provisions of sub-section (3) of Section 14 of the Press Council Act, 1978, in my opinion, are not at all attracted.

The aforesaid submissions of the learned counsel for the petitioner have no force and the same, in the fact and circumstances of the case, are rejected.

Consequently, this writ petition is dismissed. In the facts and circumstances, there shall be no order as to costs.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.